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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,652	11/13/2001	James E. Stoller	Y1.0044	6904

7590 07/28/2003

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210 South Main Street
Algonquin, IL 60102

EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,652

Applicant(s)

STOLLER, JAMES E.

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11 and 18-20, drawn to a protective winter turf cover, classified in class 47, subclass 20.1.
 - II. Claims 12-17, drawn to a method of preventing crown hydration, classified in class 47, subclass DIG11.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process of using that product, such as a packaging film.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mathew Perrone on 6/17/2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-11 and 18-20. Affirmation of this election must be made by applicant in

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replying to this Office action. Claims 12-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Fig. 3 element #146. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: page 7, Fig. 4, #128. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to because page 8 of specification, Fig. 11 'panel 142' should be --panel 180--. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,127,293 to Kimura et al.

Regarding Claim 1, Kimura teaches a protective winter turf cover with at least one layered polyethylene sheet being substantially water impermeable; the layered polyethylene sheet having at least a first layer and a second layer; the first layer and the second layer each having a directional orientation determined by force striations; the direction orientation of the first layer being at an angle relative to the directional orientation of the second layer; and the turf cover being durable (Kimura et al Col. 1 lines 27-54).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-9 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,127,293 to Kimura et al.

Regarding Claims 2-5 and 18-19, Kimura et al teaches a first layer having a first edge; the second layer having a second edge, but is silent on the force striations being at an acute angle to the first edge; the force striations being at an acute angle to the second edge; and the acute angle of the first edge being at a relative angle to the acute angle of the second edge. However, it would have been obvious to one of ordinary skill

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in the art at the time of the invention to modify the teachings through routine tests and experimentation to optimize the angle for desired durability.

Regarding Claims 6 and 20, Kumura et al as modified teaches applicant's broadly worded limitation that the at least one layered polyethylene sheet being at least a first layered polyethylene sheet and at least a second layered polyethylene sheet being secured with an adhesive in an edge to edge to form at least a part of the winter turf cover (Kimura et al Fig. 3 and Col. 1 line 57).

Regarding Claim 7, Kimura et al as modified teaches the adhesive forming a water tight barrier; and a foam layer being added to the winter turf cover (Kimura et al Col. 14 line 17).

Regarding Claims 8 and 9, Kimura et al as modified teaches the first layered polyethylene sheet being between the foam layer and the second layered polyethylene sheet or the foam layer being between the first layered polyethylene sheet and the second layered polyethylene sheet (Kimura et al Col. 14 line 15-28).

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,127,293 to Kimura et al in view of U.S. Patent No. 2,401,997 to Whitman.

Regarding Claim 10, Kimura et al as modified teaches the at least one layered polyethylene sheet being a sufficient of layered polyethylene sheets to form the protective winter turf cover into a size sufficient to cover a golf green (Kimura Col. 1 line 52), but is silent on the acute angle to the first edge and the acute angle to the second

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edge being 40 to about 50 degrees; the relative angle between the first layer and the second layer being about eighty degrees to about 100 degrees; and securing device being adapted to receive a holding means to releasably secure the protective winter turf cover to the golf green. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings through routine tests and experimentation to optimize the angle for desired durability. Furthermore, Whitman teaches a securing device for securing the cover the ground (Whitman Fig. 1 #14). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings to prevent the cover from blowing away in the wind.

Regarding Claim 11, Kimura et al as modified teaches at least one tape being applied to the edge; the at least one tape being adapted to receive a holding means in order to secure the winter turf cover to the golf green; and the at least one tape minimized damage to the layered polyethylene sheet in order to permit reuse of the winter turf cover on the golf green (Whitman Fig. 2-5 #10 and 18).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

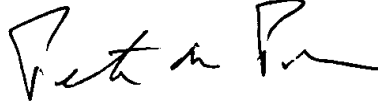
Switzerland Patent CH612321; U.S. Patent No. 4,088,805; U.S. Patent No. 983,857; U.S. Patent No. 5,262,233; U.S. Patent No. 5,532,043; U.S. Patent No. 4,128,689; U.S. Patent No. 6,093,481; U.S. Patent No. 5,275,860; U.S. Patent No. 4,980,991; and U.S. Patent No. 5,401,118.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-305-0285 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4357.

AMV
July 17, 2003


PETER M. POON
SUPERVISOR & EXAMINER
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